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**BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF THE LICENSE)
OF DALE HEATH, D.C., TO PRACTICE)
AS A CHIROPRACTIC PHYSICIAN)
IN THE STATE OF UTAH)

**PUBLIC REPRIMAND
STIPULATION AND ORDER**

CASE No. DOPL 2015-367

Dale Heath ("Respondent") and the Division of Occupational and Professional Licensing of the Department of Commerce of the State of Utah ("Division") stipulate and agree as follows:

1. The Respondent admits the jurisdiction of the Division over himself and over the subject matter of this action.
2. The Respondent acknowledges that he enters into this Stipulation and Order ("Stipulation") knowingly and voluntarily.
3. The Respondent understands that he has the right to be represented by counsel in this matter, and his signature below signifies that he has been represented by Harold Reiser in this matter.
4. The Respondent understands that he is entitled to an Order to Show Cause ("OSC") hearing before the State of Utah's Chiropractic Physician Licensing Board ("Board"), or other Division Presiding Officer, at which time he may present evidence on his own behalf, call

witnesses, and confront adverse witnesses. The Respondent understand that by signing this Stipulation he hereby knowingly and intelligently waives the right to an OSC hearing, the right to call witnesses on his own behalf, the right to confront adverse witnesses, and any other rights to which he may be entitled to in connection with said hearing. The Respondent understands that by signing this Stipulation he hereby knowingly and intelligently waives the right to all administrative and judicial review as set forth in Utah Code Ann. §§ 63G-4-301 through 63G-4-405, and Utah Administrative Code R151-46b-12 through R151-46b-15. The Respondent and the Division hereby express their intent that this matter be resolved expeditiously through a stipulation as contemplated in Utah Code Ann. § 63G-4-102(4).

5. The Respondent waives the right to the issuance of a Petition/OSC and a Notice of Agency Action in this matter and/or agrees that this Stipulation acts a de facto Petition/OSC and Notice of Agency Action.

6. The Respondent understand that this Stipulation, if adopted by the Division Director, will be classified as a public document. The Division may release this Stipulation and other information about this disciplinary action against the Respondent's license to other persons and entities.

7. The Respondent admits that the following facts are true:

- a. The Respondent was licensed as a chiropractic physician in the State of Utah on or about May 22, 1995, license number 293544-1202.
- b. The Respondent entered into a Disciplinary Stipulation and Order ("2014 Stipulation") with the Division on September 16, 2014. This 2014 Stipulation revoked the Respondent's professional license, stayed the revocation and placed the Respondent's license on probation for five years. Some of the conditions of the Respondent's probation were that he will only treat female patients with a DOPL-approved chaperone in the treatment room for the entire treatment session, that each chaperone would sign a chaperone log which documented proper supervision during the treatment session, and that he would advise female patients to cover their private/sensitive areas when he was performing any type of treatment near the vagina or breast area of a female patient.

- c. Some of the Respondent's chaperones, in trying to keep up with the required DOPL paperwork, signed that they were present for treatment sessions when they were not. The Respondent did not instruct them to do this, but his office did turn in chaperone logs that were not accurate with respect to the actual chaperone who was on duty during specific treatment sessions.
- d. On a small number of occasions, the Respondent started treatment on female patients before a chaperone was in the treatment room.
- e. On a small number of occasions, the Respondent provided treatment for female chaperones (who were working as chaperones in exchange for free treatment sessions) without chaperones.

8. The Respondent admits that his conduct described above is unprofessional conduct as defined in Utah Code Annotated § 58-1-501(2)(a). Specifically, he violated the requirements of the 2014 Stipulation. The Respondent further admits that said conduct justifies disciplinary action against the Respondent's professional license pursuant to Utah Code Ann. § 58-1-401(2)(a). The Respondent, therefore, agrees that an Order may be entered in this matter imposing the following sanctions and restrictions on his licenses:

- a. Public Reprimand: The Respondent's professional license to practice as a chiropractic physician in the State of Utah will be publicly reprimanded for violating his probationary requirements from the 2014 Stipulation.
- b. Chaperone Requirement: The Respondent will only treat female patients with a DOPL-approved chaperone in the treatment room for the **entire treatment session**. If the chaperone were to leave the treatment room prior to the end of the treatment session, the Respondent would be in violation of this Stipulation. If the Respondent were to start a treatment session before a chaperone was in the treatment room, he would be in violation of this Stipulation. If the Respondent treats a chaperone or relative without a chaperone, he would be in violation of this Stipulation.
- c. Using DOPL-approved Chaperones: There has been some confusion regarding what a "DOPL-approved" chaperone is in this case. Within three (3) days after the effective date of this Stipulation, the Respondent will submit a list of the chaperones he is planning on using to Ms. Pettley, the Division Bureau Manager for Chiropractic Physicians. Ms. Pettley or a DOPL designee will interview these prospective chaperones, either in person or telephonically, and explain their responsibilities to them. The Division will allow the current chaperones to function as chaperones for one month after the effective date of this Stipulation. Ms. Pettley may approve all of the existing chaperones or inform the Respondent that he needs to find new chaperones. If Ms. Pettley does not approve of any of the Respondent's existing chaperones, it is the Respondent's responsibility to submit the names of new chaperones to Ms. Pettley and have

them approved within 30 days of the effective date of this Stipulation. The Respondent should avoid using relatives as chaperones. The Respondent must get approval for the chaperones he uses. If he intends to bring in new chaperones, he must get prior approval from Ms. Pettley before using them.

d. Chaperone Logs: the Respondent must submit accurate chaperone logs to the Division/Board on a monthly basis or at such frequency as determined by the Division/Board. Each of the chaperone logs should be signed by the chaperone who was actually present during the specific treatment sessions. Further, the Respondent will add a provision in his chaperone logs that verifies that he advised a female patient to cover her private/sensitive areas when he was performing treatment near the vagina or breast area of this female patient.

9. This Stipulation, upon approval by the Director of the Division, shall be the final compromise and settlement of this disciplinary matter involving these violations of the 2014 Stipulation. The Respondent acknowledges that the Director is not required to accept the terms of this Stipulation, and that if the Director does not do so, this Stipulation and the representations contained therein shall be null and void, except that the Division and the Respondent waive any claim of bias or prejudice the Respondent might have with regard to the Director by virtue of the Director having reviewed this Stipulation, and this waiver shall survive such nullification.

10. The Respondent agrees to abide by and comply with all applicable federal and state laws, regulations, rules and orders related to the Respondent's licensed practice.

11. This document constitutes the entire agreement between the parties regarding these violations of the 2014 Stipulation. The requirements from the 2014 Stipulation remain in place. Any additional clarifications/requirements on chaperone logs and chaperone approval in this Stipulation take effect on the effect date of this Stipulation.

12. The terms and conditions of this Stipulation become effective immediately upon the signing of the Order page of this Stipulation by the Division Director. The Respondent must

comply with all the terms and conditions of this Stipulation immediately following the Division Director's signing of the Order page of this Stipulation, with the exception of the chaperone approval requirement, which must be addressed within 30 days of the effective date of this Stipulation.

13. If the Respondent violates any term or condition of this Stipulation, the Division may take action against the Respondent, including imposing appropriate sanctions in the manner provided by law. Such sanctions may include revocation or suspension of the Respondent's license, revocation of the probationary status of the license or other appropriate sanctions.

14. The Respondent has read each and every paragraph contained in this Stipulation. He understands each and every paragraph contained in this Stipulation, he has no questions about any paragraph or provision contained in this document, and he agrees with every paragraph and provision contained in this Stipulation. He further, acknowledges that this Stipulation does not address any violations not addressed in this Stipulation. If new violations and/or new allegations against the Respondent arise, the Division will address them in either a separate disciplinary proceeding or a separate disciplinary stipulation.

15. The Respondent admits and states that he was not coerced, unduly influenced, prejudiced, or bullied in any way into entering into this Stipulation.

**DIVISION OF OCCUPATIONAL &
PROFESSIONAL LICENSING**

By: Allyson Pettley
ALLYSON PETTLEY
Bureau Manager

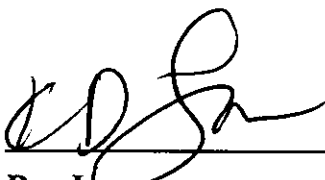
By: Dale Heath
DALE HEATH
Respondent

DATE: 7/16/15

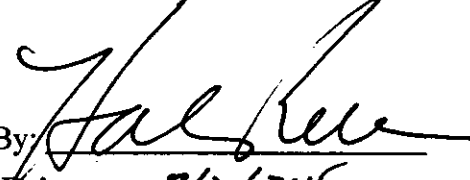
DATE: 7/1/15

APPROVED AS TO FORM:

**SEAN REYES
ATTORNEY GENERAL**

By: 
Dan Lau
Counsel for the Division

**HAROLD REISER
RESPONDENT'S COUNSEL**

By: 
Hal Keiser 7/2/2015
Counsel for the Respondent

DATE: 7/16/15

DATE: _____

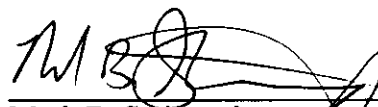
ORDER

THE ABOVE STIPULATION, in the matter of DALE HEATH, is hereby approved by the Division of Occupational and Professional Licensing, and constitutes my Findings of Fact and Conclusions of Law in this matter. The issuance of this Order is a disciplinary action pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann. § 58-1-401(2). The terms and conditions of the Stipulation are incorporated herein and

constitute my final Order in this case.

DATED this 7th day of July, 2015.

**DIVISION OF OCCUPATIONAL AND
PROFESSIONAL LICENSING**

A handwritten signature in black ink, appearing to read 'M B Steinagel', written over a horizontal line.

Mark B. Steinagel
Director